

REPORT OF PROCEEDINGS BY INVESTIGATING OFFICER/BOARD OF OFFICERS

For use of this form, see AR 15-6; the proponent agency is OTJAG.

IF MORE SPACE IS REQUIRED IN FILLING OUT ANY PORTION OF THIS FORM, ATTACH ADDITIONAL SHEETS

SECTION I - APPOINTMENT

Appointed by LTC Jones, Commander, 29th Battalion 95th Infantry Regiment

(Appointing authority)

on 10 September 2005 (Date) (Attach inclosure 1: Letter of appointment or summary of oral appointment data.) (See para 3-15, AR 15-6.)

SECTION II - SESSIONS

The (investigation) (~~board~~) commenced at Fort Jackson, South Carolina at 1200 hours

(Place)

(Time)

on 15 September 2005 (Date) (If a formal board met for more than one session, check here ☐. Indicate in an inclosure the time each session began and ended, the place, persons present and absent, and explanation of absences, if any.) The following persons (members, respondents, counsel) were present: (After each name, indicate capacity, e.g., President, Recorder, Member, Legal Advisor.)

EXAMPLE

The following persons (members, respondents, counsel) were absent: (Include brief explanation of each absence.) (See paras 5-2 and 5-8a, AR 15-6.)

The (investigating officer) (~~board~~) finished gathering/hearing evidence at 1400 hours on 20 September 2005

(Time)

(Date)

and completed findings and recommendations at 1700 hours on 22 September 2005

(Time)

(Date)

SECTION III - CHECKLIST FOR PROCEEDINGS

A. COMPLETE IN ALL CASES		YES	NO ^{1/}	NA ^{2/}
1	Inclosures (para 3-15, AR 15-6)			
	Are the following inclosed and numbered consecutively with Roman numerals: (Attached in order listed)			
	a. The letter of appointment or a summary of oral appointment data?	X		
	b. Copy of notice to respondent, if any? (See item 9, below)			X
	c. Other correspondence with respondent or counsel, if any?			X
	d. All other written communications to or from the appointing authority?			X
	e. Privacy Act Statements (Certificate, if statement provided orally)?			X
	f. Explanation by the investigating officer or board of any unusual delays, difficulties, irregularities, or other problems encountered (e.g., absence of material witnesses)?			X
	g. Information as to sessions of a formal board not included on page 1 of this report?			X
	h. Any other significant papers (other than evidence) relating to administrative aspects of the investigation or board?			X

FOOTNOTES: 1/ Explain all negative answers on an attached sheet.

2/ Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

EXAMPLE

	YES	NO ^{1/}	NA ^{2/}
2 Exhibits (para 3-16, AR 15-6)			
a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	X		
b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	X		
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	X		
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?			X
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-6)?			X
f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?			X
g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-16d, AR 15-6)?			X
3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-6)?			X
B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)			
4 At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-6)?			
5 Was a quorum present at every session of the board (para 5-2b, AR 15-6)?			
6 Was each absence of any member properly excused (para 5-2a, AR 15-6)?			
7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-6)?			
8 If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-6)?			
C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)			
9 Notice to respondents (para 5-5, AR 15-6):			
a. Is the method and date of delivery to the respondent indicated on each letter of notification?			
b. Was the date of delivery at least five working days prior to the first session of the board?			
c. Does each letter of notification indicate —			
(1) the date, hour, and place of the first session of the board concerning that respondent?			
(2) the matter to be investigated, including specific allegations against the respondent, if any?			
(3) the respondent's rights with regard to counsel?			
(4) the name and address of each witness expected to be called by the recorder?			
(5) the respondent's rights to be present, present evidence, and call witnesses?			
d. Was the respondent provided a copy of all unclassified documents in the case file?			
e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?			
10 If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):			
a. Was he properly notified (para 5-5, AR 15-6)?			
b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?			
11 Counsel (para 5-6, AR 15-6):			
a. Was each respondent represented by counsel?			
Name and business address of counsel:			
(If counsel is a lawyer, check here <input type="checkbox"/>)			
b. Was respondent's counsel present at all open sessions of the board relating to that respondent?			
c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?			
12 If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):			
a. Was the challenge properly denied and by the appropriate officer?			
b. Did each member successfully challenged cease to participate in the proceedings?			
13 Was the respondent given an opportunity to (para 5-8a, AR 15-6):			
a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?			
b. Examine and object to the introduction of real and documentary evidence, including written statements?			
c. Object to the testimony of witnesses and cross-examine witnesses other than his own?			
d. Call witnesses and otherwise introduce evidence?			
e. Testify as a witness?			
f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?			
14 If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?			
15 Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?			

FOOTNOTES: ^{1/} Explain all negative answers on an attached sheet.

^{2/} Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.

EXAMPLE

EXAMPLE

SECTION IV - FINDINGS (para 3-10, AR 15-6)

The (investigating officer) (board), having carefully considered the evidence, finds:

On or around 1900 hours on 9 September 2005 Drill Sergeant Smith of B Company, 29th Bn, 95th Inf. was informed by a soldier that PFC Richards had taken some food from the dining facility. DS Smith pull PFC Richards out of formation and asked him if he had food from the dining facility on him. PFC Richards replied that he did not, and DS Smith asked him to empty his pockets out including his canteen and BDU top. Upon emptying his pockets no food was found, however, DS Smith did find a letter in PFC Richards' pocket. Apparently, DS Smith believed that the letter was to another soldier in Bravo Company and may have been a violation of Fort Jackson Regulation 600-3. When DS Smith questioned PFC Richards to whom the letter was intended for he insisted that it was for a female friend back home. DS Smith did not believe PFC Richards' story and told him he was lying. See Exhibit A. DS Smith then told PFC Richards to get down in the yard area in front of Bravo Company and put his face in the dirt and low crawl from one tree to another tree approximately 100 feet away. PFC Richards tried to pick up his face a bit as he did not have a kevlar on to protect the sides of his face from the group. After the third time PFC Richards was told to keep his face on the ground by DS Smith, PFC Richards stopped trying to lift his head up and kept it on the ground. After PFC Richards low crawled between the two trees approximately four times for an estimated duration of thirty minutes, DS Smith asked PFC Richards if he was going to tell the truth or not. PFC Richards again replied he was telling the truth. DS Smith order PFC Richards to keep low crawling which he did and shortly thereafter DS Smith received a cell phone call which took approximately 30 minutes during which time PFC Richards continued to low crawl back and forth from tree to tree with his head in the dirt. See Exhibits A, B, C and D.

At approximately 2000 hours DS Smith told PFC Richards to get up and get into the battalion and get ready for lights out and told him that he was to write a five page paper on the seven Army Values. See Exhibit A. Upon returning to his bay, several soldiers told PFC Richards that his face was messed up and he needed to wash his face. PFC Richards went into the latrine and washed and his face and discovered that under the dirt he had several open wounds. See Exhibit M. Several soldiers from Bravo Company indicated that PFC Richards did not have any wounds prior to him being ordered to low crawl with his face in the dirt by DS Smith. See Exhibits E-K.

The next morning DS Williams noticed the wounds on PFC Richards' face and took him for medical treatment and notified the unit's chain of command of the injury. 1SG Klein had pictures taken of PFC Richards' face and informed the Bravo Company Commander of the incident. Based upon the statements made by witnesses to this incident I conclude that the injuries caused to PFC Richards' face were the result of him being ordered by DS Smith to low crawl with his face in the dirt while not wearing a kevlar.

DS Smith violated TRADOC Regulation 350-6 (Exhibit N) by requiring PFC Richards to low crawl for an extended time with his face in the dirt without a kevlar. The regulation indicates that only the physical exercises listed in FM 21-20 can be used as corrective action for minor infractions. Low crawling is not a physical exercise listed in FM 21-20. Having the soldier low crawl for an hour is an excessive form of corrective training. In addition, the regulation indicates that the soldier undergoing corrective training must be supervised during the corrective training. By talking on her cell phone for approximately 30 minutes during the corrective training, DS Smith did not properly supervise PFC Richards.

DS Smith's actions were in violation of Article 93 UCMJ, Cruelty and Maltreatment (Exhibit O). DS Smith's treatment of PFC Richards was cruel and resulted in maltreatment.

Systemic failures do not exist within Bravo Company that allow this type of incident to occur. DS Smith is aware of TRADOC Reg. 350-6 and the Bravo Company chain of command endorses this regulation. DS Smith chose to violate this regulation and as a result violated the UCMJ by crossing the line in corrective training.

SECTION V - RECOMMENDATIONS (para 3-11, AR 15-6)

In view of the above findings, the (investigating officer) (board) recommends:

DS Smith be given a field grade Article 15 for violation of Article 93 UCMJ and taken off drill sergeant status.

EXAMPLE

SECTION VI - AUTHENTICATION (para 3-17, AR 15-6)

THIS REPORT OF PROCEEDINGS IS COMPLETE AND ACCURATE. (If any voting member or the recorder fails to sign here or in Section VII below, indicate the reason in the space where his signature should appear.)

 CPT, OD

(Recorder)

(Investigating Officer) ~~(President)~~

(Member)

(Member)

(Member)

(Member)

SECTION VII - MINORITY REPORT (para 3-13, AR 15-6)

To the extent indicated in Inclosure _____, the undersigned do(es) not concur in the findings and recommendations of the board. (in the inclosure, identify by number each finding and/or recommendation in which the dissenting member(s) do(es) not concur. State the reasons for disagreement. Additional/substitute findings and/or recommendations may be included in the inclosure.)

(Member)

(Member)

SECTION VIII - ACTION BY APPOINTING AUTHORITY (para 2-3, AR 15-6)

The findings and recommendations of the (investigating officer) (board) are (approved) (disapproved) (approved with following exceptions/substitutions). (If the appointing authority returns the proceedings to the investigating officer or board for further proceedings or corrective action, attach that correspondence (or a summary, if oral) as a numbered inclosure.)

EXAMPLE

INDEX

Enclosure I: Appointment Orders

Exhibit A: Sworn Statement PFC Robert Richards 15 September 2005

Exhibit B: Sworn Statement PFC Robert Richards 17 September 2005

Exhibit C: Sworn Statement PV2 Ryan Wilson 15 September 2005

Exhibit D: Sworn Statement PV2 Ryan Wilson 16 September 2005

Exhibit E: Sworn Statement PVT Roscoe Allen 16 September 2005

Exhibit F: Sworn Statement PVT John Walters 16 September 2005

Exhibit G: Sworn Statement PVT Joe Tipton 16 September 2005

Exhibit H: Sworn Statement PVT Tyra Armstrong 16 September 2005

Exhibit I: Sworn Statement PVT Pat Joiner 16 September 2005

Exhibit J: Sworn Statement PVT Billy Johnson 16 September 2005

Exhibit K: Sworn Statement PVT Debbie Tanaka 16 September 2005

Exhibit L: DA Form 3881 signed by DS Mary Smith 19 September 2005

Exhibit M: Photos taken of PFC Robert Richards' Face

EXAMPLE

ATZJ-SJA

10 September 2005

MEMORANDUM FOR CPT Carly Simmons, Training Center Command, Fort Jackson, South Carolina

SUBJECT: Appointment as Investigating Officer

1. You are hereby appointed as an investigating officer pursuant to Army Regulation (AR) 15-6 to conduct an informal investigation into the facts and circumstances surrounding the apparent maltreatment of PFC Robert Richards of B Company, 29th Battalion, 95th Infantry, by a member or members of his unit's cadre.

2. In your investigation, all witness statements will be sworn. From the evidence, you will determine:

a. How the injuries sustained by PFC Richards on or about 9 September 2005 occurred and whether anyone was responsible for the injuries.

b. Whether there is a systemic failure in PFC Richard's unit that would allow injuries of like those sustained by PFC Richards to occur.

3. If during the course of your investigation, you come to suspect that certain people may have committed criminal offenses, you must advise them of their rights under the Uniform Code of Military Justice, Article 31, or the Fifth Amendment of the United States Constitution, as appropriate prior to questioning. Prior to beginning your investigation you should contact the Administrative Law section at the SJA office to speak to your legal advisor.

4. Your investigation will take precedence over all other duties and must be completed, coordinated through the SJA, and submitted to this headquarters, no later than 1 October 2005. Complete your investigation IAW AR 15-6 and using DA Form 1574 (Report of Proceedings by an Investigating Officer).



JONAS JONES
LTC, IN
Commanding

EXAMPLE

EXAMPLE

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 (SSN).
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION FORT JACKSON, SC	2. DATE (YYYYMMDD) 2005 09 15	3. TIME 0900	4. FILE NUMBER
5. LAST NAME, FIRST NAME, MIDDLE NAME Richards, Robert	6. SSN	7. GRADE/STATUS PFC	
8. ORGANIZATION OR ADDRESS B Company 29th BN, 95th INA			

9. I, Robert Richards, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

ON 9 Sept 2005 AT Approximately 1900 hrs I WAS LEAVING THE Dining Facility when DS Smith pulled me FROM FORMATION AND ASKED IF I HAD REMOVED FOOD FROM THE Dining Facility. I REPLIED I HAD NOT. DS Smith THEN HAD ME TO empty my Pockets. NO FOOD WAS FOUND BUT she did FIND A letter I WAS writing to A girl BACK home. DS Smith ASKED ME IF THE letter WAS to A Female Soldier IN BRAVO COMPANY. I TOLD her NO, IT WAS to A Friend BACK home. DS Smith told me I WAS LYING. DS Smith THEN ordered me to get DOWN AND LOW CRAWL FROM one Tree to ANOTHER ABOUT 100 feet AWAY. I did NOT have A Kevlar on so I KEPT my head up AS I LOW CRAWLED. DS Smith STOPPED me AND told me to keep my head ON the ground so I did. ABOUT AN hour LATER DS Smith HAD me get up to go INTO the Barracks to prepare for LIGHTS OUT. She Also told me to write A 5 page paper ON THE 7 Army Values. After cleaning up IN the BARRACKS I realized I HAD sustained open WOUNDS ON BOTH Sides of my FACE FROM LOW CRAWLING with my head ON the ground AND IN the dirt.

10. EXHIBIT A	11. INITIALS OF PERSON MAKING STATEMENT RR	PAGE 1 OF 2 PAGES
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ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT" TAKEN AT DATED

THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

EXAMPLE

EXAMPLE

STATEMENT OF Robert Richards TAKEN AT FT. Jackson DATED 2005 09 15

9. STATEMENT (Continued)

Not used

AFFIDAVIT

I, Robert Richards, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE 2. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

Robert Richards
(Signature of Person Making Statement)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 9th day of Sept 2005 at FT. JACKSON, SC

Carly Simmons
(Signature of Person Administering Oath)

ORGANIZATION OR ADDRESS

CARLY SIMMONS
(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

ART 136 UCMJ
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

RR

PAGE 2 OF 2 PAGES

EXAMPLE